

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

NANCY SIGLER,

Plaintiff,

vs.

No. CV-16-793

(Removed from Case No. D-202-CV-2016-03735)

NEW MEXICO TITLE LOANS,

Defendant.

NOTICE OF REMOVAL

Defendant New Mexico Title Loans, Inc. (“NMTL”) hereby files its Notice of Removal of the case *Nancy Sigler v. New Mexico Title Loans*, Second Judicial District Court, County of Bernalillo, State of New Mexico, No. D-202-CV-2016-03735 pursuant to 28 U.S.C. §§ 1331, 1441(a), and 1446. By removing this case, Defendant NMTL does not waive, and expressly reserves, any and all defenses available to it.¹ The grounds for removal are further stated as follows.

A. The Removed Case.

1. On June 15, 2016, Plaintiff Nancy Sigler filed her Complaint for Age Discrimination and Retaliation in the Second Judicial District, Bernalillo County, New Mexico, alleging one cause of action under the Federal Age Discrimination in Employment Act and one cause of action for Retaliation (“State Complaint”). A copy of the State Complaint is attached hereto as Exhibit 1. All of Plaintiff’s claims are subject to compulsory arbitration pursuant to the terms of a written agreement to arbitrate.

¹ Without limitation, NMTL reserves all defenses available to it under Fed.R.Civ.P. 12. NMTL further expressly reserves all rights to compel arbitration of Plaintiff’s claims pursuant to a written agreement to arbitrate executed between Plaintiff and Defendant and made specifically enforceable under the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*

2. By means other than service of process, on June 17, 2016, NMTL first learned of and came in receipt of a copy of the State Complaint. To date, NMTL has not been served with formal service of process in this action and expressly reserves all defenses of insufficient process and insufficient service of process. Upon information and belief, a summons has not been issued in this matter by the State Court and, following removal, an original summons will be required to be issued by this Court. Pursuant to D.N.M. LR-Civ. 81.1, copies of all records and proceedings from the State Court Action will be filed with the Court within thirty (30) days.

3. In accordance with Fed.R.Civ.P. 81(c), Defendant NMTL will timely file its answer, motion to compel arbitration or other responsive pleading in this matter no later than 21 days after being served with the summons. To date, no such summons has been issued by any Court.

B. Federal Question.

4. This Court has Original Jurisdiction over this action pursuant to 28 U.S.C. §1331 because Count I of the State Complaint arises under the laws of the United States, specifically the Federal Age Discrimination in Employment Act (“**ADEA**”), 29 U.S.C. § 621, *et seq.*. See Exhibit 1 - Complaint at ¶¶ 6 and 27-29; See also Exhibit 2 – Plaintiff’s Notice of Charge of Discrimination. Pursuant to 28 U.S.C. § 1369, this Court has supplemental jurisdiction over Count II for Retaliation because it is so related to Count I for Age Discrimination under which this Court has Original Jurisdiction that they form part of the same case of controversy under Article III of the United States Constitution. See also *Brever v. Jim’s Concrete of Brevard, Inc.*, 538 U.S. 691 (2003).

C. Notice of Removal is Timely.

5. Plaintiff’s State Court Complaint was filed on June 15, 2016 and Defendant NMTL, through means other than service of process, first came in receipt of the State Complaint on June

17, 2016. This Notice of Removal is, therefore, timely pursuant to 28 U.S.C. § 1446(b), as it is filed within thirty days of filing and receipt by NMTL of the initial State Court Complaint.

D. Proper Notice to the State Court.

6. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal will be promptly filed with the Clerk of the District Court of the Second Judicial District, Bernalillo County, State of New Mexico, and NMTL will serve all counsel of record in this action with this Notice of Removal promptly after its filing.

E. Consent of All Defendants.

7. NMTL is the only Defendant and therefore no consent of any other entity or Defendant is required.

F. Venue.

8. Because the State Complaint was filed and currently is pending in the Second Judicial District Court for the County of Bernalillo, New Mexico, this District is the proper venue for this action upon removal pursuant to 28 U.S.C. § 1441(a).

WHEREFORE, Defendant NMTL hereby removes this action, in its entirety, from the District Court in the Second Judicial District, Bernalillo County, State of New Mexico, to the United States District Court for the District of New Mexico.

ATKINSON, BAKER & RODRIGUEZ, P.C.

/s/ Justin D. Rodriguez

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CERTIFICATE OF SERVICE

We hereby certify that on July 7, 2016, we filed the foregoing electronically through the CM/ECF system providing notice to all counsel of record.

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/s/ Justin D. Rodriguez
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